

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

MDL 3047

This Document Relates to:

JOLEEN YOUNGERS, As Personal
Representative of the Wrongful Death Estate of
I.G., A Deceased Minor Child; MATTHEW
GONZALES; ALISA GONZALES and ELSA
ACEVEDO,

Plaintiffs,

v.

TIKTOK INC. and BYTEDANCE INC.

Defendants.

Member case: 4:22-cv-06456-YGR

Case in other court: N.M., 1:22-cv-00706-JFR-LF

Case No. 4:22-md-03047-YGR

Hon. Yvonne Gonzalez Rogers

**UNOPPOSED MOTION FOR
LEAVE TO FILE AMENDED
COMPLAINT**

PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Plaintiffs Joleen Youngers, as Personal Representative of the Wrongful Death Estate of I.G.,
a deceased minor Child; Matthew Gonzales; Alisa Gonzales and Elsa Acevedo, file this Unopposed

1 Motion for Leave to File Amended Complaint. In support thereof, Plaintiffs would show the
2 following:

3 1. On August 9, 2022, Plaintiffs filed this action in the First Judicial District Court of
4 Santa Fe County, New Mexico as Case No. D-101-CV-2022-01441. Plaintiffs in that proceeding
5 were identified by pseudonyms in the original complaint.

6 2. Plaintiffs sought leave to proceed using the pseudonyms in the original complaint
7 pursuant to New Mexico law. Before Plaintiffs' motion for leave to proceed using pseudonyms
8 could be heard, Defendants filed a notice of removal. After this case was removed to federal court
9 it was included in the conditional transfer order and transferred to this Court. MDL No. 3047,
10 CTO-1. No ruling was ever made on Plaintiffs' motion for leave to use pseudonyms.

11 3. Plaintiffs no longer believe the use of pseudonyms is necessary for the adult-
12 plaintiffs in this case and seek leave pursuant to FED. R. CIV. P. 15(a)(2) to identify those parties by
13 name in an amended complaint. A copy of the proposed Amended Complaint is attached as Exhibit
14 1.

15 4. Federal Rule of Civil Procedure 15(a)(2) states that a party may amend a pleading
16 before trial "with the opposing party's written consent or the court's leave" and that the "court
17 should freely give leave when justice so requires." While Rule 15(a) is "very liberal . . . a district
18 court need not grant leave to amend where the amendment: (1) prejudices the opposing party; (2) is
19 sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile. *See, e.g., Kidwell-*
20 *Bertagnolli v. Cty. of Sonoma*, No. 20-cv-03291-JSC, 2020 U.S. Dist. LEXIS 198945, at *2 (N.D.
21 Cal. 2020) (granting leave to amend complaint).

22 5. Plaintiffs sought Defendants' written consent to file an amended complaint, provided
23 a copy of the proposed amendment, and explained that the purpose of the amendment was to
24

1 identify the names of the adult-plaintiffs in the style and throughout the complaint. Defendants
2 have indicated that they are unopposed to Plaintiffs' motion for leave or the amendment.

3 6. Plaintiffs' motion and amended complaint are filed in the interest of justice. The
4 purpose of Plaintiffs' amendment is to identify the parties more clearly by name rather than by
5 using pseudonyms. This amendment will help clarify the suit for the Court and the parties.
6 Plaintiffs have not added any additional defendants, any additional claims, or any additional
7 theories of liability to the case in this amendment.

8 7. None of the relevant factors weigh against Plaintiffs' requested amendment. There
9 is no prejudice to Defendants. Defendants have not answered or otherwise responded to the
10 complaint and do not presently even have a deadline to respond. Moreover, the nature of Plaintiffs'
11 amendment, the identification of the Plaintiffs by name, cannot prejudice Defendant. Plaintiffs do
12 not seek the amendment in bad faith. Instead, Plaintiffs request the amendment in an effort to avoid
13 motion practice about pseudonyms used in the original complaint. Plaintiffs' amendment would
14 result in no delay. This case is not presently set for trial and Defendants do not have a deadline to
15 respond to the complaint. Plaintiffs' amendment is not futile. There are no alleged deficiencies in
16 Plaintiffs' original complaint. Plaintiffs' amendment seeks merely to identify the names of the
17 parties in the original complaint.

18 8. Plaintiffs are mindful of the Court's intent to have a master complaint in the case.
19 Plaintiffs do not expect this amendment will interfere with the Court's master complaint process.
20 Instead, Plaintiffs file this complaint to avoid any allegation of undue delay.

21 9. Thus, Plaintiffs respectfully request that the Court grant Plaintiffs leave to file the
22 amended complaint filed with this motion.

1 Dated: November 21, 2022

Respectfully submitted,

2 /s/ Anthony K. Bruster

Anthony K. Bruster

3 New Mexico Bar No. 20283

Pro Hac Vice

4 **Shawn A. Latchford**

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5 *Pro Hac Vice*

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14 *Attorneys for Plaintiffs*

15
16 **CERTIFICATE OF CONFERENCE**

17 Counsel for Plaintiffs conferred with counsel for Defendants identifying the requested
18 amendment, with a copy of the proposed amendment, and sought consent from Defendants'
19 counsel. Defendants' counsel confirmed that Defendants do not oppose the relief requested in this
20 motion. Thus, it is filed as unopposed.

21 /s/ Anthony K. Bruster

22 **Anthony K. Bruster**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served on all parties registered to receive service by ECF on November 21, 2022.

/s/ Anthony K. Bruster
Anthony K. Bruster